

**Minutes
State Board of Education
Monday, October 24, 2005**

The Arizona State Board of Education held its regular meeting at Cochise Community College, 901 North Colombo Avenue, Sierra Vista, Arizona. The meeting was called to order at 9:00 AM.

Members Present

Mr. Jesse Ary
Ms. Nadine Mathis Basha
Dr. Matthew Diethelm
Ms. JoAnne Hilde
Superintendent Tom Horne
Ms. Joanne Kramer
Ms. Anita Mendoza
Dr. Karen Nicodemus
Ms. Cecilia Owen
Dr. John Pedicone

Members Absent

Dr. Michael Crow

PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

1. APPROVAL OF MINUTES

A. September 26, 2005

Motion by Dr. Pedicone to approve the minutes as submitted and seconded by Ms. Kramer. *Motion passes.*

2. BUSINESS REPORTS

A. President's Report

Dr. Diethelm stated that the annual NASBE conference was held two weeks ago where Mr. Horne and Ms. Carolyn Warner represented Arizona as speakers. Dr. Diethelm thanked members for their participation in the conference, as well. Dr. Diethelm noted the following items of interest from the conference:

- Adolescent literacy report that has been released
 - Will be helpful as we go forward in Arizona
 - He will bring this to the Governor's P-20 Council Sub-Committee
- Value-added assessment report
 - There was a panel discussion on the state's capacity to meet NCLB requirements
 - Data on cost implications and implementation of programs

Dr. Diethelm provided the first draft summary of the Measurement and Accountability Sub-Committee with recommended actions:

- Outside party review of assessments and accountability programs
- Include an AIMS and accountability program information packet in the Board advocacy program

Dr. Diethelm expressed the Board's appreciation to Dr. Nicodemus and her associates for hosting today's meeting at Cochise Community College.

B. Superintendent's Report

Mr. Horne expressed appreciation to Dr. Nicodemus and her associates for hosting today's meeting.

C. Board Member Reports

Dr. Pedicone noted that the Professional Development Sub-Committee met in Tucson to discuss how the State Board can support professional development in Arizona. The sub-committee found a need for a status report as to where we are in the state and submitted a first draft of their report to members which included recommendations on how to get good information to make future decisions and engage the field in telling about what they are experiencing.

Ms. Hilde thanked Dr. Nicodemus and her staff for hosting today's meeting. Ms. Hilde stated that she attended the day-long seminar regarding bullying at the NASBE conference and noted that there is a wide variety of approaches to a wide variety of issues that loosely fall under the heading of bullying. She added that the topic of safe campuses for students of all ages was discussed as an over-arching approach rather than looking at all the ways in which children can abuse one another. Dr. Nicodemus thanked members for their willingness to travel to Sierra Vista and staff who assisted in organizing today's arrangements.

Ms. Basha stated that she attended the WestEd Board meeting and noted that WestEd has awarded a grant for Southwest Comprehensive Centers, of which Arizona will be one of five states to be involved in as they work toward assistance with NCLB and providing additional resources for schools. Ms. Basha added that the program on Thursday of the WestEd conference was "The media and education" and how the media reports on education. She noted that the speaker's criticism was that oftentimes what is reported on is the periphery and not the "meat" of what happens on a day-to-day basis.

D. Director's Report, Including Discussion and Possible Legal Action

1. Update on Performance Based Compensation System Task Force
2. Other Items as Necessary

Mr. Vince Yanez, Executive Director, Arizona State Board of Education, noted that general questions from the Performance Based Sub-Committee were distributed to members this morning.

Mr. Yanez stated that a new law requires the State Board to create a Performance Based Compensation System Task Force to conduct annual evaluations of district performance based compensation structures which must be operational by February '06. He noted that the results of the evaluation completed by the task force will be presented to the State Board and then forwarded to schools, districts, Speaker of the House and the President of the Senate. Mr. Yanez noted that the law is prescriptive regarding the membership of the task force and will include teachers, administrators, governing board members, and lay members. Mr. Yanez noted that he is soliciting recommendations and will present these to the Board at the December '05 meeting.

Mr. Yanez noted that a memo from Dr. David Garcia, dated October 14, 2005 has been forwarded to members and reminded members that the Legislation that required the Board to develop the AIMS Augmentation also included a requirement that the Board conduct certain research looking at other states. Mr. Yanez noted that at the Board's Study Session it was agreed that that research would be conducted by Dr. Garcia and AEPI and this report will be completed on or before November 18, 2005 which is well before the January, 31, 2006 due date. Mr. Yanez stated that the completed report will be distributed to members and will be an agenda item on the December 5, 2005 State Board meeting. Mr. Yanez noted that the Board should have adequate time to examine the report and make any suggestions before it is due to the Speaker of the House and the President of the Senate on January 31, 2006.

3. SPECIAL PRESENTATION: WELCOME AND RECOGNITION OF OUTSTANDING TEACHERS

Joanna Michelich, Ph.D., Vice President for Instruction/Provost of Cochise College, welcomed the State Board and noted the following information about the college:

- Dr. Nicodemus' leadership has led the college to go beyond its traditional mission and consider its role in the P-20 pipeline
- Center for Teacher Education was started three years ago and the number of education majors has increased from 27 to 113
- Early childhood education program has been started
- A co-op grant with the University of Arizona South assists students through the pipeline
- Teacher education is a very important area that Cochise College is focusing on
- Task force looking at the viability of a middle college high school for Douglas and Sierra Vista campuses

Ms. Trudy Berry introduced the following K-12 educators from Cochise County who represent 24 districts, 6 private schools, 7 charter schools or districts, and 1 one-room school with 8 students:

- Margaret Garcia Dugan, Deputy Superintendent of Public Instruction, Arizona Department of Education, who is from Bisbee, Arizona
- John Kugler - Center for Academic Success 9-12 grades; 2004 High School Teacher of the Year, Project Learning at Brown Canyon Ranch
- Diane Dudzik - Fort Huachuca 8th grade; 2004 Elementary Teacher of the Year, Excelling School
- Mary Farbo - Willcox Unified 2nd grade; 2005 Elementary Teacher of the Year, the only Reading First School in our county
- Debbie Chandler - St. David 7-12 Special Education; 2004 Middle School Teacher of the Year, Japanese are observing St. David's Science classes
- Penelope Lavario - Bisbee High, 9-12 grades Computers/Business; 2005 Teacher of the Year
- Jomel Jansson - Benson Elementary Principal; Arizona Small and/or Rural School's Teacher of the Year for the state in 2001
- Marylotti Copeland - Coronado Elementary; Excelling School in the Palominas District
- Dr. Rhonda Frueauff - Superintendent Fort Huachuca Accommodation Schools; Excelling School, Outperforming District
- Dale Mortenson - Superintendent, Cochise Technology District
- Gail Zamar - Superintendent, Douglas Unified; Culinary Arts Program
- Ronald Hennings - Superintendent, Tombstone Unified; Building a new high school with SFB funding that will open in January
- Linda Frost - Superintendent Ash Creek; LEA for State Technology Grant which is administered in this county
- Paul McDonald - Superintendent, Bisbee Unified; ASA's Administrator of the Year in Support of the Arts
- Renae Humburg, Superintendent, Sierra Vista Public Schools; Largest District in our county with a student population of 6,953

CALL TO THE PUBLIC moved to this time:

Mr. J. Ronald Hennings, Superintendent, Tombstone USD, on behalf of himself and fellow educators, stated their concerns regarding the recently adopted Social Studies Standards. Mr. Hennings noted that he has taught social studies and multicultural education, worked as a director of curriculum and instruction and assistant superintendent for instruction for a number of years.

Mr. Hennings outlined their concerns as follows:

- Chronological capacity of young children ages 6, 7, 8, 9 and 10 (the age appropriateness of the curriculum)
 - Curriculum introduced at the first, second, third and fourth grade levels which takes children back 4000-5000 years into history

- Concerned whether children can understand these time periods
 - Children at this age level have a chronological understanding capacity of about 10-14 years-not much beyond their own lifespan
 - Research by Piaget, Montessori, Ginot, Kolhbert, and Epstein substantiates that if the material is not understandable it would result in pedagogical issues
- Exposure of young children to complex adult issues from ancient civilizations
 - Want children to remain children as long as possible
- Opportunity cost in terms of the loss of the current curriculum that exists in most other states
 - Loss of expanding concentric circles of awareness curriculum that is standard practice in most public school systems
 - Curriculum where a child has a sense of himself/herself, family (nuclear and extended), neighborhood, community (religious and secular), region, state, nation and world
- Pedagogical prerequisites in the area of memorization which is tedious
 - In the current curriculum most districts enjoy the emphasis on understanding and application of those understandings of the family and community
- Instructional materials that are and are not available
 - Most reputable publishers do not provide this material for young children
- Monocultural bias of the proposed elementary content-rich curriculum that focuses on Greco-Roman civilization
 - Does not bring Islamic, Hebrew, Asian, African, or Native American traditions into the scope of the student
 - Tends to violate the agreements between the treaty of Guadalupe Hildago in terms of Hispanic culture and language

Mr. Hennings asked the Board to continue to monitor the implementation and take these early childhood development and pedagogical considerations in mind as the standards are reviewed over the coming years.

Mr. Jason Wilson, a student at the UofA South represented the '06 class and asked why they were being told to take classes or why a program is being changed before the State Board has approved the program. He noted that they have been told that they need to take a Language Learners class that has not yet been approved by the State Board and they wonder why they are being told this. Dr. Diethlem responded that Board rule does not allow discussion at this time and added that the comments are appreciated and will be taken under advisement. Mr. Horne noted that Ms. Garcia Dugan could speak to the students and forward further information to them. Mr. Wilson provided his contact information for future communications in this matter.

Mr. Mike Smith, Arizona School Administrators, addressed the Board regarding:

- AIMS Special Education exemption where there seems to be some confusion as to what is required by the law
 - Believe solutions are being worked on
 - Law appears to be clear on the issue that will govern the special education exemption from taking AIMS lies directly with IEP of the student
 - What does IEP entail
 - Law written described criteria:
 - One area addresses AIMS and says that they are exempt if they are a special education student whose IEP does not require specifically taking one or all of the AIMS tests

- Seems to say that if IEP is silent on taking competency test they do have to take the AIMS test but do not have to pass AIMS
- Second area talks about the AIMS and whether or not the IEP includes a competency test in it
- Does law require re-doing IEP's?

Superintendent Horne noted that he will be sending a memo to schools as soon as advice is received from the Attorney General's Office and Mr. Smith noted that the Department has indicated they are addressing the issue.

- Eligibility criteria for both Title I and Reading First programs
 - Title I issues have been strung out for several months and Reading First has just come to their attention
 - Federal requirements for these grants are based on 2000 census
 - States may adopt a different standard but if they do it must be uniformly applied
 - Arizona is using census data from 2002 and there are issues from changing the criteria
 - Have to submit a letter of intent to file by November 8
 - If application is not done it is a 3-year cycle resulting in schools that do not file and will not be eligible for three years
 - Can the state look at question of eligibility criteria again and if possible under what circumstances is that possible

Ms. Hilde stated that she is not clear as to what the State Board of Education can do to impact this decision and if there is any option to impact the decision. Dr. Pedicone noted that schools should be encouraged to write a letter.

Ms. Jennifer Pollock, Assistant Attorney General, noted that because this is a call to public item members can place this on a future agenda for further discussion but deliberation could not continue at this point.

Superintendent Horne pointed out that Ms. Nancy Konitzer could assist with further information.

Ms. Hilde asked if Mr. Yanez could be instructed to work with ADE staff and bring the information back to the Board at a future time or meeting.

Dr. Pedicone added that in terms of whether there is an issue with qualification resulting from a change in criteria that the Department should strive to get information out to the schools as quickly as possible.

4. CONSENT ITEMS

Mr. Yanez amended Contract #3 regarding Service Learning noting that this contract is with the State Board of Education rather than the State Board for Career and Technical Education so a separate convening is not necessary.

- A. Consideration to Approve Contract Abstracts
- B. Consideration to Accept the Recommendations of the Professional Practices Advisory Committee and Approve Certification for the Following Individuals:
 1. Michael Coleman , Case # C-2004-196 R
 2. Ann English, Case # C-2005-098 R
 3. Ann D. Hart , Case # C-2005-001 R
 4. David D. Nelson , Case # C-2004-193 R
 5. Eugene Nero , Case # C-2005-026 R
 6. Michele Williams, Case # C-2005-090 R
 7. Elyse Wolverton , Case # C-2004-130 R

Dr. Pedicone requested that items 4B1 and 4B5 be pulled for further discussion.

Dr. Nicodemus requested that 4B2 be pulled for clarification.

Ms. Mendoza requested that 4B3 be pulled for further discussion.

Motion by Dr. Pedicone to approve the consent agenda with the exception of items 4B1, 4B2, 4B3 and 4B5. Seconded by Dr. Nicodemus. *Motion passes.*

Item 4B1: Mr. Yanez presented background information as provided in the materials packet and Mr. Coleman nor his representation were present.

Dr. Pedicone noted his concern regarding Mr. Coleman's inmate classification and further dispensation of action as noted in subsequent years. He added that without more complete information he is not comfortable making a recommendation other than denying.

Mr. Yanez clarified the options available to the Board:

- Approve
- Reject and deny
- Remand to the PPAC for further review
 - If this is remanded, Mr. Yanez recommended the Board request this case be a de novo meaning it should be approached as a brand new case and that the Board articulate the areas that should be further clarified

Ms. Pollock reviewed the process as follows:

- If denied, notice is provided to the applicant indicating the denial and appeal rights
- The applicant has 15 days to request an appeal which is a full hearing before the PPAC
 - This follows the formal rules for a hearing where the applicant has the ability to present evidence and the State represents the State Board of Education and presents evidence that would support denial of the application
 - After the recommendation comes back from the PPAC, the Board will have the opportunity to uphold the denial if that is the recommendation

Dr. Nicodemus concurred with Dr. Pedicone and requested clarification regarding:

- The education hours completed
- What institution Mr. Coleman is enrolled in
- When applications are not reported correctly the PPAC should address the moral character of the applicant and the reason for the application not being completed appropriately in the first place

Motion by Dr. Pedicone to deny certification. Seconded by Ms. Basha. Ms. Pollock clarified that if the motion is to deny application for certification, the Conclusions of Law must be modified with regard to the recommendation to indicate and specify that it was unprofessional conduct, the reason it was unprofessional conduct and based on that the Board does not believe there were mitigating circumstances and therefore the application was denied.

Dr. Pedicone retracted his first motion and made a motion to remand the case de novo to the PPAC for further information specifying when Mr. Coleman was last incarcerated, details surrounding the report from the Florence prison regarding his status as a risk to the public or institutional risk and any other details that will help clarify the documentation presented to the Board.

Ms. Hilde added that clarification of Mr. Coleman's current status in education should be added to the request for the PPAC and Dr. Pedicone concurred. Motion seconded by Dr. Nicodemus.

Motion passes.

Mr. Ary asked Ms. Pollock what specific discussions regarding moral qualifications could be addressed and Ms. Pollock responded that the findings are included in the materials provided and members have the ability to make findings pertaining to any of the conduct delineated in those materials. She added that the Board may create their own findings based on the information provided, make a determination that the conduct was immoral or unprofessional and based on this, and make a decision whether or not to approve or deny the application for certification.

Mr. Yanez noted that Board rule defines unprofessional or immoral conduct.

Item 4B2: Ms. Owen stated her concern regarding the lack of knowledge in special education categories, lack of appropriate application of a behavior plan and noted there was no indication of training in these areas.

Mr. Chad Sampson, Assistant Attorney General, clarified that Superintendent Fontes believed Ms. English did not have the training but the other members of the PPAC did not believe this was a mitigating factor.

Ms. Hilde concurred that from a behavior and written document standpoint it appeared there was a lack of training and asked if approval could be made with a contingency for further training in these areas.

Mr. Yanez responded that in matters of a review the Board does not have the authority to attach conditions but that this matter could be remanded to the PPAC for review in specific areas.

Ms. Mendoza added that this is not only a special education issue but as Ms. English is applying for a principal or superintendent classification it could be a concern. Ms. Mendoza noted that there was an apology note attached to the application that Ms. English's application was completed by her secretary, which also brings in the issue of confidentiality, record keeping, and other issues.

Mr. Sampson noted that if the investigator receives an application where a person forgets or fails to put in all the information that is necessary, frequently the investigator contacts the applicant and gives them an opportunity to complete the application. Mr. Sampson added that if the investigators did not make these contacts for further clarification the number of cases coming before the Board would increase significantly.

Dr. Nicodemus noted that she loses some objectivity in this case as she knows the individual and many of the people who have written the letters of recommendation, as well as the fact that this individual has a very long career in education. Dr. Nicodemus added that Board rule requires items of question to be called out and her intention was to clarify the County and correct spelling of the school board as noted in the minutes of September 7, 2005 regarding this case.

Motion by Ms. Owen to remand this case back to the PPAC de novo to consider remediation for information and training. Dr. Nicodemus asked if the request would be to require additional training at this point of Ms. English's career and noted that Ms. English was in the process of transitioning to retirement.

Ms. Pollock clarified that the State Board has the ability to request the PPAC to investigate what further training has already been received following this incident or if there are plans for additional training and the burden would be on the applicant to show how she has rehabilitated herself since this incident. Ms. Pollock added that requiring additional training is beyond the scope of what the Board is asked to do today.

Dr. Pedicone asked if the Board could remand this back to the PPAC for further information and postpone a decision until this information is provided.

Motion by Dr. Pedicone to remand the case back to the PPAC de novo with the intent of looking at the information dealing with professional preparation and experience in dealing with students with behavioral issues. Seconded by Ms. Hilde. *Motion passes. Dr. Nicodemus voted no.*

Ms. Basha requested that the context of her current responsibilities be included in the information requested from the PPAC.

Item 4B3: Mr. Yanez presented the background information as provided in the materials packet.

Dr. Nicodemus cited a recent email to Ms. Flores noting that evidence points to anger management issues.

Ms. Hart responded that she felt the investigator asked for information that Ms. Hart has previously submitted and Ms. Hart said she felt the investigator did not understand.

Ms. Hilde stated that she concurs with the thread of anger management as noted in the history of the case, that she noted the five years of sobriety and also that Ms. Hart was listed as a perpetrator

of some of the domestic violence incidents. Ms. Hilde added that she did not see evidence of Ms. Hart's continuing with AA or evidence that there is continued training in anger management and Ms. Hart responded that she was continuing with AA.

Motion by Dr. Nicodemus to accept the recommendations of the PPAC and grant certification.

Seconded by Ms. Hilde. *Motion passes. Ms Mendoza and Ms. Owen .voted no. Roll call vote was 8 yes and 2 no.*

Item 4B5: Ms. Hilde indicated that the materials provided were not sufficient in the findings of fact or the investigation. Mr. Yanez presented the background information as provided in the materials packet.

Dr. Pedicone added that there is not enough information to show guilt or innocence and that he can't say this individual is safe to work in schools.

Mr. Nero addressed the Board stating the following:

- PPAC investigation was conducted over an 8-month period
- Tucson ADE Certification Unit told him that if DPS issued a fingerprint card there would be no problem
- He will always believe the incident was an act of self defense but the community he lived in would not allow this to fly and his attorney recommended that he plea for a second degree manslaughter charge
- After the PPAC reported its investigation to DPS a simultaneous investigation was launched by DPS
- DPS notified him via letter that they had suspended his fingerprint clearance card
- There had been no conviction so the card was reinstated
- He filled out the certification application with candor and checked the box indicating a conviction
- Still in a quandary as to why this is happening since the conviction was set aside
- PPAC went through its investigation and he doesn't understand the legal technicalities but he did take a life and regrets it immensely
- According to DPS this case does not exist
- He had a partner who was violent, was running away, they fought, he feared for his life and used a gun
- He has never been in trouble before or since, asks for forgiveness every day, the case was thrown out, DPS has no record, and possibly he should not have checked there was a conviction but he was frank in checking the box on the form

Mr. Sampson stated that the investigators look at immoral or unprofessional conduct and investigate that conduct. He clarified that whether the person is convicted or acquitted, it is the underlying conduct that is brought to the PPAC. Mr. Sampson added that convictions are guideposts.

Dr. Nicodemus asked Mr. Nero whether he would check "yes" or "no" regarding prior convictions on a subsequent application and Mr. Nero replied that based on the letter from DPS his answer would be no. He added that prior to the DPS letter he had not submitted other applications during this investigation period. Mr. Nero added that he sent out 15 applications on June 2 throughout the Tucson area which was after receiving the findings of DPS, checking "no" that he had not been convicted.

Mr. Nero stated that his classroom conduct has nothing to do with what happened that night and it has no connection with the past and that he has no record of wrongful behavior as a teacher.

Ms. Hilde explained her concern after reading the reports noting the level of violence in the event even though Mr. Nero's fingerprint clearance card was approved. Ms. Hilde noted that the Board has a burden to make sure students are protected.

Mr. Nero noted his years of teaching after this occurrence with no incidents or problems. He stated it is not possible for him to harm a child and that he has had to separate students bigger than himself but never with violence.

Motion by Dr. Nicodemus to accept the recommendations of the PPAC and grant Mr. Nero's application for certification. Seconded by Ms. Kramer. *Motion passes. Ms. Owen voted no.*

Dr. Pedicone requested that Mr. Yanez explore ways in which the Board can give input on what kind(s) of certification issues belong on the Consent Agenda and which do not. Dr. Pedicone added that the assumption is that matters of routine issues that are not necessarily controversial appear on the Consent Agenda and that all other issues be placed on the regular agenda.

Mr. Yanez responded that the items on the Consent Agenda are those that have received a positive recommendation from the PPAC and that historically the Board has not specified which items would be placed on the regular agenda but that the Board certainly has the ability to make those specifications.

Dr. Diethelm clarified that if any of the following are in a case, they should not be on the Consent Agenda:

- Felony
- Violence
- Drugs
- Murder
- Conditions out of the ordinary scheme of things

It was also noted that the proximity of the event should also be considered in placing items on the agenda.

Mr. Ary noted his concerns which are similar to these mentioned as well as his concern about the PPAC's action. Mr. Ary stated that several issues have been brought to this Board in the recent past where the PPAC made no recommendation and while the PPAC has this option these items have been remanded back to the PPAC for further investigation and clarification. Mr. Ary wondered whether this would send a message to the PPAC that the Board is looking for clear recommendations.

Mr. Sampson responded that he will take this guidance to the PPAC and will work with them to improve. He noted that they will ask for a second review before asking the applicant to appear before the SBE. Mr. Sampson suggested that Board members are welcome to submit guidelines that will assist the PPAC in making decisions and Dr. Diethelm asked members to forward their suggestions to Mr. Yanez.

- C. Consideration to Approve Proposals for Training Programs Relating to Full Structured English Immersion Endorsements

The Board took a break at 11:00AM and reconvened at 11:17

5. CALL TO THE PUBLIC
See above.

6. GENERAL SESSION

- A. Presentation, Discussion and Consideration to Accept the Recommendations of the Professional Practices Advisory Committee and Deny Certification for the Following Individuals:

1. DiAnne Grubaugh , Case # C-2003-074 R

Mr. Yanez presented the background information as provided in the materials packet. Ms. Pollock noted that the Conclusions of Law, Item #1, refers to the Board's authority to institute disciplinary action, however, this is not a case requiring disciplinary action but rather is a denial. Therefore,

Ms. Pollock proposed that the current language of this item be eliminated and replaced with the language as follows:

“Pursuant to A.R.S. §15-534(C) the Board may deny an application for certification on a finding that the applicant engaged in immoral or unprofessional conduct or conduct that would warrant disciplinary action if the person had been certified at the time the alleged conduct occurred.”

Motion by Superintendent Horne to accept the PPAC’s recommendations. Seconded by Ms. Basha. *Motion passes.*

2. Brent Heisler, Case # C-2004-067 R

Mr. Yanez presented the background information as provided in the materials packet.

Dr. Nicodemus asked if Mr. Heisler still holds a certificate for elementary education and Ms.

Pollock responded that he currently has a certificate and this deals with a new application for adult certification. Ms. Pollock added that the Investigative Unit will have to decide whether or not to bring a complaint against Mr. Heisler’s existing certificate based on today’s decision to deny or not to deny. Mr. Yanez noted that a complaint could be presented in possibly two months from now if it is determined by the Investigative Unit to do so.

Mr. Sampson noted that the understanding is that Mr. Heisler conveyed to the PPAC that he is not teaching at this time. Dr. Nicodemus noted that Mr. Heisler’s employment history shows that he is currently teaching in an adult education program and Mr. Yanez clarified that this may not require certification.

Ms. Mendoza asked if the district accepted Mr. Heisler’s resignation and did not file a complaint and Mr. Yanez noted that the matter was reported by the District to Investigations, which they are required to do, and once the report is made the employment status of the individual is left to district and the district elected to accept his resignation. Ms. Mendoza wondered if anything would show on Mr. Heisler’s record at this time and Mr. Yanez said that since the certificate is currently under investigation, it would show up if there was a search regarding his certificate. Mr. Yanez added that any action taken by the Board today, i.e. if the Board votes to deny certification, will also show on Mr. Heisler’s record.

Dr. Diethelm asked what the typical disciplinary actions have been in the past in matters similar to this and Mr. Sampson explained that if pornographic material is involved, the case is always investigated and if substantiated a complaint is filed. Mr. Sampson noted that the timeline to file a complaint involves hearing one or two full hearings per PPAC meeting. At this rate, Mr. Sampson explained that a note is placed in the file that the person is under investigation. Mr. Yanez added that in cases similar to this one the State Board has recommended to suspend or revoke certification in the past.

Motion by Ms. Hilde to accept findings of fact, conclusions of law and recommendations of the PPAC and deny Brent Heisler’s application for certification. Seconded by Ms. Owen. *Motion passes.*

- B. Presentation and Discussion Regarding Proposed Modifications to Board Rule: R7-2-307. The Board May Take Action to Schedule a Public Hearing on the Proposed Rules
- C. Presentation and Discussion Regarding Proposed Modifications to Board Rule: R7-2-308 and R7-2-612. The Board May Take Action to Schedule a Public Hearing on the Proposed Rules

Superintendent Horne presented Items B and C as they are minimizing the number of ADE staff traveling to the Board meetings but noted that they are available via telephone if necessary. Mr. Horne noted that the Adult Education fee would be used in the field to reduce waiting times but the funds will not be kept by ADE. Mr. Horne explained that federal monies have been used in the past for these expenses but this is supplanting the efforts and should stop. He noted that programs

need to have the ability to charge fees although there is some disagreement among some other programs. However another thought is that charging reasonable fees causes students to take their studies more seriously.

Mr. Horne noted that they are recommending that they be permitted to charge administrative fees and that the prohibition for local programs charging fees be removed.

Mr. Yanez added that the proposed rules do not reflect a fee schedule but this will have to be added to the final rule package. Mr. Yanez noted that they may recommend a ceiling on the fee of possibly \$20 with the actual fee being less than \$20, but the Department would have the ability to make some adjustments to the fee within reason.

Dr. Diethelm asked what the forecast is for the quantity of GEDs and what magnitude of fees is being considered. Ms. Karen Liersch, Deputy Associate Superintendent, Adult Education Services, Arizona Department of Education, responded that 10,000-11,000 diplomas per year have been the most recent years' averages with about 15,000-16,000 taking the test per year.

Ms. Basha asked if some of the \$12M federal funds would be reallocated for administrative costs and whether the balance would go out to the field and be utilized for instruction for ADE, ASC, or English Language Acquisition students.

Ms. Owen noted that students in Coconino County sometimes drop a class if a parking fee is charged and Ms. Liersch explained that there would be a condition for a waiver or scholarship for the \$20 fee and the local provider would have the ability to determine whether or not to waive the instruction fee. Ms. Liersch also added that providers will be asked to provide free classes for those students who cannot afford to pay. She noted that currently they are losing students as fees cannot be covered by agencies.

Ms. Liersch clarified that R7-2-307 pertains to GED testing and costs to cover the state administration of that testing program and R7-2-308 refers to the adult education instructional program in the state which includes adult secondary education, adult basic education, and English Language Acquisition.

Dr. Pedicone clarified that ADE gets federal monies (\$9M of the \$12M received are federal funds) and the goal is to not use federal funds to administer programs and then more of the federal funds will be available to the programs.

Ms. Liersch noted that the federal funds that will be available to the programs will be available through the regular allocation process required by the federal government which may be used for technology improvement, professional development activities, classroom instruction, etc. She added that the Department would monitor the use of those funds.

Dr. Pedicone requested reports to the State Board of Education regarding the use of the additional federal funds, reduction of waiting periods, etc.

Mr. Horne noted that the Department is currently spending about \$430,000 in administration and it could capture back approximately \$200,000 by charging a fee. This would also open up the opportunity for providers to assess fees.

To follow the rulemaking procedure, Mr. Yanez explained that the Board would need to initiate the rulemaking process for R7-2-307, R7-2-308 and R7-1-612 and then he will schedule a public hearing to receive public comment at a future date and written public comment will be received up until the rules are adopted.

Dr. Diethelm noted that it is not necessary for the Board to initiate the rulemaking process in this meeting. He added that members can ask questions, request further information, postpone consideration of initiating the rulemaking process until the next meeting, or initiate the rulemaking process.

Dr. Nicodemus stated that she would like some time to solicit comments from her colleagues at other community colleges.

Dr. Diethelm concluded that the Board would like to hear this again on December 5, 2005.

D. Presentation, Discussion and Consideration to Approve the Proposed List of Tests for the Identification of Gifted Students in Arizona

Ms. Margaret Garcia Dugan, Deputy Superintendent of Public Instruction, Arizona Department of Education, presented the background information as provided in the materials packet. She noted that the identification of gifted students is performed by each district and the Department will be asking for an increase in funds from the Legislature for the schools. It was clarified by Ms. Garcia Dugan that the request before the Board today is to approve the test list which schools would use to identify gifted students. Dr. Diethelm noted that he would trust a local district to make these determinations.

Ms. Owen asked for further input in this matter and Ms. Garcia Dugan noted that Mr. Jeff Hipskind, Director of Gifted Education and Advanced Placement, Academic Achievement, Arizona Department of Education, could provide more detailed program information including the total number of students, ethnicity, ELLs, etc. Ms. Garcia Dugan will ask Mr. Hipskind to forward his PowerPoint Presentation to Ms. Owen.

Ms. Garcia Dugan noted that the tests have been updated since 1980 and the current list has been updated to accommodate changes by publishers. Ms. Garcia Dugan added that it is the responsibility of the local school district to identify the gifted students and that statute requires the Department to create this list.

Motion by Ms. Hilde to approve the list of tests for the identification of gifted students in Arizona as presented. Seconded by Ms. Owen. *Motion passes.*

E. Presentation and Discussion Regarding the Results of the 2005 National Assessment of Educational Progress (NAEP)

Dr. Cindy Paredes Ziker, State National Assessment of Educational Progress (NAEP) Coordinator, presented the background information via PowerPoint Presentation included in the materials packet. Dr. Ziker pointed out that some of the comparisons are somewhat vague as some of the prior years' information is not available.

Mr. Ary stated his concern regarding the 8th grade reading scores and asked what schools are identified in these statistics. Dr. Ziker responded that these are randomized sample percentages of races that depict the breakdowns in the state, i.e. rural, urban, fringe, city, but actual schools/students are confidential. Dr. Ziker did note that some of the following are represented:

- Phoenix elementary
- 14-15 schools in the Tucson Unified School District
- Rural Southern Arizona was barely visible
- Northern Arizona was very well represented
- Native American data was not reported for 4th grade math and 8th grade reading

Dr. Ziker pointed out that sometimes the sample is not as accurate as it should be and then the statistics are held back as the sample did not give a clear representation. She noted that it depends on the population and total number in the group as to which statistics are reported and that more time is needed to watch the trends.

Dr. Ziker also noted that if certain test questions require manipulatives and the teacher does not have them in the classroom, they can be downloaded from the web site.

Dr. Ziker provided a copy of the testing schedule which is included in the materials packet.

Dr. Nicodemus noted that this collection of measure establishes a benchmark and where we can expect a certain point of achievement in a given number of years.

Dr. Pedicone stated that we are not trying to guide our standards to be a NAEP success, but that we need to know why adjustments are being made and why some of our students are doing better in some areas and not doing better in other areas.

Dr. Ziker responded that they are doing an intensive NAEP study with the American Institute of Research, looking at student, teacher, and home factors, at AIMS and NAEP scores and looking deeper into the available data as of last Wednesday.

Regarding setting growth trajectory Dr. Ziker pointed out that schools are held back from AYP until more information is gathered. Dr. Ziker suggested that members look at CCSSO and other reports for further information. Dr. Diethelm noted that Arizona is working toward improvement, that we will be looked at and that we need to continue to push programs to improve using the tools that are at our disposal.

Ms. Basha noted that we don't know yet what creates change, but by this report three states improved and Arizona did not and we need to know why.

Dr. Ziker noted that:

- NAEP is not assessing grade level performance
 - Some of the reporting is confusing in this respect
- NAEP provides statistics about particular things to do with the average scale score
 - Exclusion rate
 - Some states show improvements due to exclusion rates
 - Sample error
- Hopefully the extended study should show these differences
- Arizona does not use a bilingual test book

Dr. Ziker will forward the parameters and proposal for the study to members.

The Board broke for lunch at 12:55PM and reconvened at 1:45PM

F. Presentation, Discussion and Consideration to Approve the Tutoring Program for Students from Underperforming and Failing Schools. Discussion Will Include a Status Report of the Related High School Tutoring Program

Ms. Nancy Konitzer, Deputy Associate Superintendent, Academic Achievement Division, Arizona Department of Education, presented the background information and the update of the implementation previously considered which is included in the materials packet. She noted the following:

- 54 districts totaling 544 tutors are participating
- Online system shows 112 students have been registered and/or served to date
- Training was provided throughout the state by GrowNetwork, Inc.
- Various presentations have been made by Department staff

Roadblocks noted by Ms. Konitzer:

- The IDEAL portal is not being utilized as yet as this is too large a project at the outset
- Student SAIS information cannot be transmitted due to privacy issues

Methods being used to date:

- Students are being registered online
- Tutors must be registered by November 11 in order to be paid by the end of the month
- Legislature was asked last year to remove the request for refunding and they did not do this
 - This will be requested again this year

Dr. Pedicone noted that it is not right to put out this many guides and not be using them and that we may not have the correct tool to cause this to happen. However, it was also noted that the tools we are using now are worthwhile and the Department needs to find proactive ways to use these tools.

Ms. Hilde stated that a follow-up report is expected in December regarding:

- How the 54 districts break down statewide
- Why the 175 not on the list haven't availed themselves of this program
- Final numbers of students that participated

- Evaluation of the study guides and this program
 - Were schools missed
 - Look at tutoring to begin January 3

Ms. Konitzer noted that there will be \$12.5M potential available funds and they need to look at how to target the underperforming schools. The State Board needs to know the barriers so they can assist in dropping those barriers if possible. Ms. Konitzer noted that some districts may have run their own program in the fall and may participate in the spring but she felt that the Department needs to work with the School Effectiveness Division to assist in spreading the word.

Ms. Mendoza noted:

- There are still problems in getting on the IDEAL site
- Will the survey show what program schools used rather than utilizing this tutoring service
 - Were their programs more effective than this one
- Fears we are not focusing on underperforming students if they are not in this program

Motion by Ms. Hilde to approve the tutoring program for students from underperforming and failing schools. Seconded by Ms. Mendoza. *Motion passes.*

G. Presentation, Discussion and Consideration to Determine Non-Compliance with the USFR for Failing to Correct Deficiencies and to Withhold State Funds Pursuant to A.R.S. §15-272(B) from the Gila Bend Unified School District No. 24

Mr. Sampson presented the background information as provided in the materials packet and requested the Board to consider withholding funds based on the non-compliance issue.

Mr. Jim Mosley, Interim Superintendent, Gila Bend USD, apprised the Board of the circumstances that brought the district to this point adding that Heinfeld and Meech has been assisting them. Mr. Mosley stated that the district believes it is in compliance and requested the matter be tabled until the Auditor General verifies its compliance.

Mr. Sampson explained that when the Auditor General's Office does an audit, it must verify after 90 days that the district has put into place all the necessary changes and that those changes are being followed. Mr. Sampson added that the district still has not submitted the audit reports so there is no way to tell if they are in compliance. He added that the Auditor General is scheduling other audits now at 90 days out but the average time monies could be withheld could be 3-6 months.

Dr. Pedicone noted that this is the first time Gila Bend is in this circumstance and that the Interim Superintendent is in a difficult situation.

Mr. Mosley noted that the district has targeted the problems and believes the corrective action plan is comprehensive to address the issues. He added that a draft of the '04 audit will be forwarded to the Auditor General as soon as it is received.

Motion by Ms. Hilde to determine that the Gila Bend Unified School District is out of compliance with the USFR and to direct the Superintendent of Public Instruction to withhold 5% of state funds from the district until the Auditor General reports that the district is in compliance with the USFR. Seconded by Dr. Pedicone. *Motion passes.*

H. Presentation, Discussion and Consideration of Proposed Modification to AZ LEARNS School Classification Formula Relating to Highly Performing and Excelling School

Superintendent Horne presented the background information as provided in the materials packet and noted that the schools labeled as excelling last year already had over 90% of their students as proficient, including schools that had free and reduced lunches. He added that it was mathematically impossible for these schools to improve according to the original formula and was an unintended consequence. He explained that initially there were 120 schools in this category but only 9 could be affected, and of those 9 schools (1 charter and 7 district), 8 deserved to be

excelling but because of the unintended consequence the correction needs to be made. He proposed that if a school reaches the highest category percent with students' proficiency they should be given 100% rating instead of 70%.

Ms. Hilde stated:

- This was primarily formula driven and represented a valid and reliable system
- Concerned about tweaking this to meet specific needs
- What is happening with different levels of student performance as we move students to a higher and higher level of competency
- If students are not being challenged to grow then we are doing something wrong
- Has some of the research not been done

Superintendent Horne stated there is a fear that focusing on proficiency causes schools to neglect the brightest and average students. He stated that part of the issue is when a school ranking goes down but the individual student scores are improving it causes an unintended consequence.

Dr. Pedicone stated that he is in favor of fixing something early on and that this should be looked at closer as we go without letting these schools suffer.

Dr. Nicodemus stated that she feels like this is tweaking an immediate problem, and even though well intentioned there was an extensive discussion about this topic at the August State Board meeting. She noted her concern that this is an attempt to solve an immediate issue without looking at the entire process.

Superintendent Horne noted the credibility of the system and that the schools which are doing a good job would be downgraded without this correction.

Dr. Nicodemus noted that the communities are watching so continual tweaking must be done carefully.

Ms. Mendoza noted that what has been presented as valid, won't be perceived by some communities as credible if changes are constantly being made.

Ms. Basha clarified that items of this magnitude should come to the Board as an information item and be voted on at a subsequent meeting according to Board policy.

Mr. Horne stated that if this were postponed until action at the December meeting there is a concern regarding the legislative requirements for the release of labels. Mr. Horne recalled that in a discussion in 2003 it was noted that there may be some circumstances that could justify this action.

Motion by Dr. Pedicone to approve the proposed modifications to the AZ LEARNS school classification formula as presented. Seconded by Superintendent Horne.

Further discussion ensued regarding:

- The need for members to discuss this with schools
- Ascertain the affects on schools
- Concern regarding last minute changes in the agenda

Dr. Pedicone withdrew his motion.

Motion by Dr. Pedicone to postpone action on this item pending receiving information regarding the legal ramifications, etc. Dr. Diethelm noted that this could be discussed via conference call if necessary. Seconded by Superintendent Horne.

Ms. Basha stated that her issue is the need for enough information to make a judicious decision.

Ms. Mendoza added that when the new formula was presented in Flagstaff there was no opportunity for input so time for dialogue and time to immerse in more indepth information is needed.

Ms. Owen stated that she feels like playing catch-up and that she is not well informed and would like more time to make a decision.

Dr. Diethelm requested members to write down items of information still needed so staff will have clear direction on what to bring to the next meeting.

Mr. Ary noted that he is in favor of giving consideration to tweaking when it is appropriate but that we have to err on the side of informed consent and perhaps this decision cannot be made until the informed consent is received.

The following list was submitted by members:

- Numbers and parameters for all 9 affected schools
- Last couple of years' classifications for 9 affected schools
- What happens to the formula 5 years or 10 years out?
- Has the formula been worked so that it mitigates further unintended consequences?
- How does this fit in to the entire formula? Does it create other ramifications-ripple effects?
- Clear "impact" statements (present and consequential)
- To ADE statisticians: are there any other "unanticipated" consequences on the horizon that we should know about now?
- What are the formulas going to look like 5, 10 years out?
- Given the numbers of English Language Learners currently being exited from EL programs and \$\$ for compensatory education programs eliminated, what impact is projected on these students and AIMS?
- Look at other levels and determine if this will affect other movement
- Give specific samples of how this looks in practice
- Give us (without names) the actual data on each school
- At some point, what are other hot buttons to be prepared for?
- Profiles of each school that will be affected
- Number of appeals submitted: _____ granted; _____ denied
- What other "quirks" are identified, i.e. small schools
- Assurances this is the last tweak
- All unintended consequences have been (or ADE) has tried to identify weaknesses of AZ LEARNS

Mr. Vernon Jacobs, Superintendent, Glendale UHSD, addressed the Board stating that last year their school was excelling and improving in every area. He thanked the Board for AIMS because the kids are doing better. He noted the following:

- They need to know the rules, but when rules adjust, they have to figure out how to meet the requirements
- The system needs to be aware that this is going to happen
- Baseline data is presented to the public year after year
- Hope the Board finds a way to tweak the system to better match the school's progress
- Students are all trying to learn and trying to do better
- Once the news is out it can't be changed so quick action to fix this is important

I. Consideration to Appoint an Additional Member to the Nominating Committee
Regarding Election of Board Officers

Dr. Diethelm stated that the Nominating Committee consisting of Ms. Basha, Dr. Pedicone, and himself, unanimously recommended Ms. Hilde to serve as President for next year. He added that they did not come to a conclusion on a recommendation for Vice President and the committee requests that Ms. Hilde be included in further discussions in this matter.

7. ADJOURN

Motion by Dr. Nicodemus to adjourn. Seconded by Ms. Mendoza. Meeting adjourned at 3:30PM